

Message Text

CONFIDENTIAL

PAGE 01 BRASIL 03877 01 OF 02 161907Z

43

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

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R 161750Z MAY 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 9271

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

CONFIDENTIAL SECTION 1 OF 2 BRASILIA 3877

E.O. 11652: GDS

TAGS: ENINV, PGOV, BR

SUBJECT: COMMISSION OF PARLIAMENTARY INQUIRY ON

MULTINATIONAL CORPORATIONS

REF: BRASILIA A-153, OCTOBER 18, 1974

1. SUMMARY. A COMMISSION OF PARLIAMENTARY INQUIRY ON
MULTINATIONAL CORPORATIONS OF THE CHAMBER OF DEPUTIES BEGAN
HEARINGS ON APRIL 24 ON THE ACTIVITIES OF MNCS IN BRAZIL.
THE PANEL WILL REPORT IN SIX MONTHS ON RECOMMENDATIONS FOR
LEGISLATIVE AND REGULATORY CHANGES. INITIAL TESTIMONY FROM
INDUSTRY AND TRADE ASSOCIATIONS HAS YIELDED SHARP DIFFERENCES
OF OPINION, WITH CRITICISM CENTERING ON COMPETITION WITH
BRAZILIAN-OWNED FIRMS AND ANTI-COMPETITIVE PRACTICES.
BRINGING EVEN STRONGER CRITICISM ARE THE WRITTEN COMPLAINTS
BEING SUBMITTED TO THE CPI AT ITS INVITATION. THE MOST
PROVOCATIVE ONE REVEALED TO DATE CONCERNS FAVORITISM SHOWN BY
AN EX-GENERAL AND FORMER MINISTER OF INDUSTRY AND COMMERCE
TO THE US FIRM, RHEEM MANUFACTURING, AND HIS SUBSEQUENT
APPOINTMENT AS A DIRECTOR OF THE COMPANY. PRESIDENT GEISEL
HAS PUBLICLY REAFFIRMED THE POSITIVE ROLE OF FOREIGN CAPITAL

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 03877 01 OF 02 161907Z

IN NATIONAL DEVELOPMENT. EMBASSY BELIEVES THAT WHILE HEARINGS

WILL GENERATE MUCH RHETORIC AND RECEIVE HEAVY PRESS COVERAGE,
GOB INVESTMENT POLICY WILL REMAIN ESSENTIALLY UNCHANGED,
ALTHOUGH SOME REGULATIONS MAY BE CLARIFIED AND TIGHTENED.
REQUEST THAT DEPT POUCH CERTAIN USG MATERIALS. PORTIONS
OF THIS MESSAGE BASED ON CONTRIBUTIONS FROM CONGEN SAO PAULO. END
SUMMARY.

2. A COMMISSION OF PARLIAMENTARY INQUIRY (CPI) ON MULTI-NATIONAL CORPORATIONS (MNCS) WAS ESTABLISHED ON APRIL 24 IN THE CHAMBER OF DEPUTIES FOR A TERM OF SIX MONTHS TO INVESTIGATE THE ACTIVITIES OF MNCS IN BRAZIL, THEIR EFFECTS ON THE NATIONAL ECONOMY, AND THEIR CONCORDANCE WITH BRAZILIAN NATIONAL INTERESTS. THE MAIN ISSUES THAT THE CPI WILL TAKE UP ARE: MNC COMPETITION IN SECTORS HAVEING BRAZILIAN-OWNED FIRMS, ANTI-COMPETITIVE PRACTICES, INFLUENCE PEDDLING AND CONFLICT-OF-INTEREST PROBLEMS, PREFERENCE SHOWN TO MNCS BY GOVERNMENT BAKS IN LENDING AND BY GOVERNMENT AGENCIES IN PROCUREMENT AND REGULATION, EXPORTS AND TRANSFER PRICING, TECHNOLOGY TRANSFER AND PROPRIETARY RIGHTS, AND INTERNATIONAL PRICE-FIXING OF INDUSTRIAL AND AGRICULTURAL PRODUCTS.

3. IN AN INFORMAL CONVERSATIO WITH EMBOFFS, THE CPI'S CHAIRMAN, MDB "AUTENTICO" DEPUTY ALENCAR FURTADO (PARANA), SAND THAT THE PANEL'S FUNCTION IS TO INVESTIGATE, DRAW CONCLUSIONS, RECOMMEND NEW LEGISLATION TO CORRECT EXISTING LEGISLATIVE AND REGULATORY SHORTCOMINGS, AND, IF DEEMED WARRANTED, RECOMMEND JUDICIAL PROSECUTION. DURING A MEEETING WITH CONGEN SAO PAULO, THE CPI'S RAPPOREUR, WELL-KNOWN FINANCIER AND PUBLISHER HERVERT LEVY (ARENA-SAO PAULO), REAFFIRMED THIS FUNCTION AND ADDED THAT THE CPI WOULD NOT ENGAGE IN POLEMICS. SUBSEQUENTLY AT A UNIVERSITY OF SAO PAULO LAW SCHOOL ROUND TABLE, WHERE THE AUDIENCE WAS GENERALLY ANTI-MULTINATIONAL, LEVY SAID THAT THOSE WHO ARE INTERESTED IN THE ISSUE OF MULTINATIONAL CORPORATIONS SHOULD "KEEP THEIR FEET ON THE GROUND" AND ANALYZE CALMLY AND COOLY THE ENEFITS AND DISADVANTAGES WITHOUT DISTORTING OR OVER-SIMPLIFYING THE PROBLEMS INVOLVED.

4. IN LINE WITH THE CPI'S SECTOR-BY-SECTOR APPROACH, THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 03877 01 OF 02 161907Z

FIRST WITNESSES HAVE COME FROM THE INDUSTRIAL AND TRADE ASSOCIATIONS -- AND SHARP DIFFERENCES OF OPINION HAVE EMERGED. THE PRESIDENT OF THE NATIONAL INDUSTRIAL CONFEDERATION GENERALY SUPPORTED MNCS IN SECTORS WHERE THEY DO NOT COMPETE WITH NATIONAL ENTERPRISES (I.E., PRIVATE BRAZILIAN-OWNED COMPANIES) OR WHERE THEY CONTRIBUTE NEW TECHNOLOGY. LEADERS OF THE COMPONENT STATE FEDERATIONS COUNTERED THIS POSITION WITH STRONG COMPLAINTS ABOUT TOO MANY MNCS IN THE ELECTRICAL

PRODUCTS INDUSTRY IN PARA, JAPANESE ACTIVITY IN THE SHOE INDUSTRY IN RIO GRANDE DO SUL, USE OF PROPRIETARY RIGHTS TO PREVENT ACCESS BY NATIONAL DRUG COMPANIES TO NEEDED RAW MATERIALS, OVER-INVOICING BY PARENT COMPANIES, FOREIGN ENTRY INTO THE WINE INDUSTRY, AND OTHERS. IN THE TRADE SECTOR, THE PRESIDENT OF THE NATIONAL CONFEDERATION OF TRADE TESTIFIED THAT MNCS ARE NOT SIGNIFICANT IN THE SECTOR, WITH A FEW EXCEPTIONS. HE ADDED THAT THE CONFEDERATION HAD NEVER RECEIVED A COMPLAINT ABOUT UNFAIR BEHAVIOR BY FOREIGN-OWNED COMPETITORS.

5. EVEN MORE PROVOCATIVE THAN THE COMPLAINTS LODGED DURING THE HEARINGS HAS BEEN THE SURGE OF RESPONSES TO THE CPI'S PUBLIC REQUEST FOR WRITTEN COMPLAINTS ("DENUNCIAS") ABOUT MNCS. ON MAY 6 THE FPI EXTENDED ITS FIRST INVITATION TO A COMPLAINANT, A TRACTOR PRODUCER FROM PERNAMBUCO, WHO WILL ELABORATE ON CHARGES THAT ALLIS CHALMERS-FIAT TRIED TO ELIMINATE HIM FROM THE BRAZILIAN MARKET, WITH THE AID OF FEDERAL AGENCY DISCRIMINATION AGAINST HIM. THE NEXT DAY, THE CPI ANNOUNCED THAT IT HAD RECEIVED A CHARGE AGAINST RETIRED GENERAL EDMUNDO MACEDO SOARES THAT, WHILE SERVING AS MINISTER OF INDUSTRY AND COMMERCE IN THE COSTA E SILVA GOVERNMENT (1967 - 69), HE FAVORED THE US METALS COMPANY RHEEM MANUFACTURING AND ITS BRAZILIAN AFFILIATES. MOREOVER, THE STATE-OWNED STEEL COMPANY, CSN, IS ACCUSED OF HAVING PROTECTED RHEEM'S BRAZILIAN MARKET IN STEEL DISTRIBUTION. ACCORDING TO THE PRESS, THE GENERAL BECAME A DIRECTOR OF RHEEM UPON LEAVING HIS MINISTERIAL POST. THE CPI ASKED THE GENERAL TO TESTIFY ON MAY 20.

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BRASIL 03877 02 OF 02 161833Z

51

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

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CONFIDENTIAL SECTION 2 OF 2 BRASILIA 3877

6. IN ADDITION TO THE BUSINESS WITNESSES ASKED TO TESTIFY IN RESPONSE TO THE COMPLAINTS, THE CPI WILL HEAR FROM THE AGRICULTURAL CONFEDERATION, AND VARIOUS GOVERNMENT OFFICIALS, INCLUDING MINISTERS OF FINANCE, PLANNING, HEALTH, AND INDUSTRY AND COMMERCE. ASIDE FROM GENERAL MACEDO SOARES, REPRESENTATIVES OF THE FOREIGN BUSINESS COMMUNITY HAVE NOT BEEN CALLED. AMERICAN BUSINESSMEN ARE VERY ANXIOUS ABOUT ANY SUCH REQUESTS. THE CONCERN OF THE FOREIGN BUSINESS COMMUNITY IS SUCH THAT, ACCORDING TO ONE ARENA DEPUTY, FOREIGN INVESTMENT FLOWS HAVE SLOWED, AND HE WARNED THAT TO PREVENT FURTHER DETERIORATION THE CPI SHOULD FINISH ITS WORK QUICKLY.

7. PERHAPS PARTLY TO STEM THESE CONCERNS, THE GOVERNMENT HAS SPOKEN OUT IN FAVOR OF MNCS IN THE PAST FEW DAYS. SPEAKING AT THE 11TH CONGRESS OF THE ASSOCIATION OF LATIN AMERICAN INDUSTRIES ON MAY 6 PRESIDENT GEISEL STATED THAT, "... SUBJECT TO RULES AND PRE-ESTABLISHED CRITERIA, AND WHILE COMPATIBLE WITH SUPERIOR NATIONAL INTERESTS, FOREIGN COMPANIES, EVEN THOSE OF A TRANSNATIONAL CHARACTER, FIND THEIR PLACE IN THE INDUSTRIAL MODEL ADOPTED (BY BRAZIL), THE GOVERNMENT RECOGNIZING THEIR MAJOR ROLE AS VEHICLES

CONFIDENTIAL

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PAGE 02 BRASIL 03877 02 OF 02 161833Z

FOR THE ATTRACTION OF FOREIGN SAVINGS, THE TRANSFER OF TECHNOLOGY, AND THE INCORPORATION OF MANAGERIAL CAPACITY IN THE ENTREPRENEURIAL ENVIRONMENT OF THE COUNTRY, AS WELL AS THE EXPANSION AND DIVERSIFICATION OF EXPORTS." FINANCE MINISTER SIMONSEN, WHO VISITED FRANCE LAST MONTH TO STIR INTEREST IN LENDING TO, AND INVESTING IN BRAZIL (SEE BRASILIA 3552), WAS EVEN MORE SPECIFIC ABOUT THE EFFECT OF THE CPI INVESTMENT POLICY. IN SALVADOR ON MAY 6, HE SAID, ACCORDING TO PRESS REPORTS, THAT, "WHATEVER ARE THE CONCLUSIONS OF THE CPI . . . THE GENERAL DIRECTIONS OF GOVERNMENT POLICY WITH RELATION TO (MNCS) WILL NOT UNDERGO ANY ALTERATION," ALTHOUGH SOME "SMALL DETAILS" COULD BE REVIEWED. SIMONSEN'S STATEMENT PROVIDED AN ANGRY RESPONSE FROM FURTADO WHO CONDEMNED SIMONSEN'S INCURSION INTO THE LEGISLATIVE PROCESS. EVEN LEVY CRITICIZED SIMONSEN'S REMARKS, AND THE MINISTER SUBSEQUENTLY SAID THAT HIS REMARKS HAD BEEN MIS-REPORTED.

8. COMMENT: THE CPI HEARINGS WILL GENERATE MUCH ORATORY,

MANY HEADLINES, SOME NEW FACTUAL INFORMATION, AND, POSSIBLY, SOME INSTANCES OF IMPROPER BEHAVIOR, BUT THE EMBASSY DOES NOT EXPECT THAT THEY WILL AFFECT THE POLITICAL OR ECONOMIC CLIMATE ENOUGH TO BRING ABOUT A BASIC CHANGE IN THE GOVERNMENT'S POLICY OF ENCOURAGING FOREIGN INVESTMENT IN SECTORS WHERE FOREIGN CAPITAL, MANAGEMENT, OR TECHNOLOGY ARE DEEMED NECESSARY. THE EVOLVING BRAZILIAN CLIMATE FOR FOREIGN INVESTMENT PRIOR TO THE CPI AND CURRENT GOB POLICIES WERE REPORTED IN THE EMBASSY'S A-153 OF OCTOBER 18, 1974.

9. SOME OF THE COMPLAINTS ALREADY AIRED AT THE HEARINGS SUCH AS THE COMPLAINT AGAINST FIAT-ALLIS, ARE OLD CHESTNUTS THAT HAVE BEEN HEARD BEFORE AND REJECTED BY GOB AGENCIES. OTHER ACCUSATIONS, SUCH AS THAT AGAINST FORMER MINISTER MACEDO SOARES, ARE LESS KNOWN AND HAVE THE ADDED ATTRACTION OF INVOLVING POSSIBLE PERSONAL SCANDAL. SOME CHARGES, SUCH AS RESTRICTIVE PRACTICES BY FOREIGN DRUG COMPANIES, ARE BROADLY ACCEPTED AS VALID. ANY FINDINGS OF IMPROPRIETIES OR ANTI-COMPETITIVE BEHAVIOR COULD GENERATE PRESSURE FOR NEW LEGISLATION OR REGULATIONS TO MONITOR FOREIGN INVESTMENT MORE CLOSELY OR PERHAPS RESTRICT IT IN CERTAIN ASPECTS. THE ABILITY OF THE EXECUTIVE BRANCH TO

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 03877 02 OF 02 161833Z

CONTROL THE OUTCOME OF THE HEARINGS DEPENDS ON WHETHER THE CPI FINDS AND EXPLOITS POLITICALLY ANY PROVOCATIVE CASE OF MALFEASANCE. UNFORTUNATELY, THE RECENT PUBLICITY ABOUT THE ACTIVITIES OF UNITED BRANDS AND GULF OIL IN OTHER COUNTRIES MIGHT SPUR THE CPI TO SEARCH FOR BRAZILIAN EXAMPLES. IN THE FINAL ANALYSIS, THE EXECUTIVE BRANCH'S BROAD POWERS AND ARENA'S MAJORITIES IN THE CHAMBER (AND SENATE) ASSURE THAT ANY DECISIONS TO BE MADE BELONG TO THE EXECUTIVE BRANCH, BUT THE CPI HEARINGS CAN CERTAINLY INFLUENCE THE POLITICAL CLIMATE WITHIN WHICH DECISIONS ARE MADE.

10. ACTION REQUESTED. FURTADO REQUESTED EMBASSY'S ASSISTANCE IN OBTAINING COPIES OF RECENT US SENATE AND HOUSE REPORTS ON MNCS, AS WELL AS EXECUTIVE BRANCH STUDIES AND INDEPENDENT JOURNAL ARTICLES. WHILE EMBASSY INTENDS TO AVOID ANY INVOLVEMENT WITH CPI PROCEEDINGS, WE WISH TO BE HELPFUL IN AN INFORMAL WAY BY RESPONDING TO REQUESTS FOR INFORMATION. EMBASSY WOULD, THEREFORE, APPRECIATE THE DEPARTMENT'S FORWARDING COPIES OF REPORTS AND RECORDS OF HEARINGS OF THE CHURCH SUBCOMMITTEE ON MNCS, THE RIBICOFF SUBCOMMITTEE ON INTERNATIONAL TRADE HEARINGS ON MNCS IN EARLY 1973, THE TARIFF COMMISSION'S STUDY PREPARED FOR THESE HEARINGS, THE DEPARTMENT OF COMMERCE'S "SPECIAL SURVEY OF US-BASED MNCS, 1970," JOURNAL ARTICLE BY CLARKE ELLIS (EB) ON USG POLICY, AND OTHER APPROPRIATE MATERIALS INCLUDING SPEECHES,

WHICH WOULD PUT CASE FOR MNCS IN PROPER PERSPECTIVE.
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